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**From:** Berry, Brian D.  
**Sent:** Monday, May 29, 2023 9:41 PM  
**To:** Bradley Manewith; Shannon Liss-Riordan; Thomas Fowler  
**Cc:** Stephenson, Kassia; Cherry, Ashlee N.; Meckley, Eric; Kapoor, Roshni C.; Govea, Joseph A.; Corcoran, Carolyn M.; Lotsoff, Jonathan D.  
**Subject:** Strifling v. Twitter; FAC

Bradley, Shannon, and Thomas:

We're still digesting the FAC you filed in *Strifling*, but what jumped off the page is that you've added a new named plaintiff and new individual, class, and collective claims for age discrimination under the ADEA and FEHA. We were surprised to see that because Judge Tigar's order dismissing the original complaint states, "Plaintiffs may file an amended complaint within twenty-one days of this order solely to cure the deficiencies identified by this order." ECF No. 38 at p. 16. I'm writing to identify this violation of the Court's order and ask you to withdraw the FAC and to file an amended FAC that complies with the limitation in the Court's order. We can work with you on a stipulation that permits you to file it and that sets a responsive pleading for 21 days out, per our prior agreement.

If these amendments were not an oversight or you otherwise intend to stand on the FAC, we propose that the parties stipulate to a schedule that allows Twitter to file a motion to strike the addition of a new plaintiff and the age discrimination facts and claims and sets Twitter's deadline to respond to the FAC for 21 days after the Court rules on the motion to strike. Please let us know if this second option will work for you.

If the second option will not work, please let us know if you will stipulate to a "Joint Request for a Telephonic CMC re Case Schedule In Light of Plaintiff's Violation of this Court's May 8, 2023 Order (ECF No. 38)." Judge Tigar holds CMCs on Tuesdays at 2:00, but it appears he is in trial this week and conducting CMCs on Wednesday at 2:00 instead. So, we should target that date.

If you are not amenable to any of these three options, we will file an administrative motion to the same effect asking the Court to put us on its CMC calendar for Wednesday, May 31 at 2:00, or as soon as the Court can schedule the CMC.

Plaintiffs' violation of the Court's order is prejudicial to Twitter, and the prejudice will grow by the day because Twitter should not be forced to spend time responding to an amended complaint that plainly violates the Court's order. We expect Judge Tigar will agree.

Accordingly, please let us know your response by tomorrow (Tuesday) at noon PT.

Thanks,  
Brian

**Brian D. Berry**

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